

**ONE LOUDOUN  
ZMAP 2015-0007  
ZCPA 2015-0013  
PROFFER STATEMENT**

**Submitted July 15, 2015  
Revised December 17, 2015  
Revised February 23, 2016  
Revised April 15, 2016**

Pursuant to Section 15.2-2303, Code of Virginia (1950), as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance, as amended (the “Zoning Ordinance”), One Loudoun Holdings LLC, One Loudoun Downtown LLC, and One Loudoun Neighborhood Association Inc. (collectively the “Applicant”), the undersigned owners of the property identified as Loudoun County Tax Map 63 Parcel 4; Tax Map 63 ((9)) Parcels 1, 2, 3, 4, 5, 6, 8, 9A1, 9A2, 9A3, and 9A4; Tax Map 63 ((10)) Parcels 7 and 8; Tax Map 63 ((12)) Parcel 10; Tax Map 63 ((13)) Parcels A-1, A-2, A-3, and O-2; Tax Map 63 ((871)) Parcel 1A; Tax Map 63 ((872)) Parcels 1 and 2; Tax Map 63I ((1)) Parcel 1; Parcel 63J ((1)) Parcel 3; Tax Map 63L ((5)) Parcel 11; Tax Map 63N ((1)) Parcels 7C, 7D, 7B2, 11, 12, and 13; and Tax Map 63O ((1)) Parcels 9A5, 9A6, 9A7, and 9A8 (respectively PIN # 057-10-2844, 057-19-6686, 057-10-0483, 057-10-0299, 057-10-1684, 057-10-1401, 057-19-9739, 058-49-5342, 057-19-7678, 058-49-8866, 057-19-8588, 057-19-8211, 057-18-9133, 057-28-9607, 057-20-1127, 057-38-6693, 057-29-5356, 057-29-6579, 057-10-5711, 058-10-9012, 058-20-6677, 058-20-9286, 057-18-0288, 058-39-7776, 058-30-7898, 058-40-3555, 057-10-2418, 058-40-2526, 057-10-2643, 057-19-4669, 057-29-2150, 058-49-9721, 058-49-9345, 057-19-7837, and 057-19-5835), (the “2015 ZCPA Property”) and further shown on the North Existing Conditions Plat and South Existing Conditions Plat (Sheets 3 and 4 of 11 of the Rezoning Plans identified in Proffer I below), on behalf of themselves and their successors in interest, hereby voluntarily proffer that the development of the 2015 ZCPA Property subject to this ZMAP 2015-0007/ZCPA 2015-0013 application shall be in substantial conformance with the proffers as set forth below. The parcels that comprise the 2015 ZCPA Property along with those parcels that were subject to the original One Loudoun rezoning (ZMAP 2005-0008) but not subject to this application, are herein collectively referred to as the “Property.”

The existing Tax Map parcels not included within the 2015 ZCPA Property but which are part of the Property subject to (i) ZMAP 2005-0008 (the “2005 ZMAP”), (ii) ZMAP 2012-0016 (the “2012 ZMAP”), (iii) ZMAP 2013-0009 (the “2013 ZMAP”), (iv) ZCPA 2008-0003 (the “2008 ZCPA”), (v) ZCPA 2012-0012 (the “2012 ZCPA”), and (vi) ZCPA 2013-0006 (the “2013 ZCPA”) shall remain governed by the Concept Development Plans and proffers approved with the 2005 ZMAP, 2012 ZMAP, 2013 ZMAP, 2008 ZCPA, 2012 ZCPA, and 2013 ZCPA. In addition, the 2015 ZCPA Property (whose Tax Map parcels and PIN numbers are set out above) shall also continue to be subject to the proffers of the 2005 ZMAP, 2012 ZMAP, 2013 ZMAP, 2008 ZCPA, 2012 ZCPA, and 2013 ZCPA (the “2005/2008/2012/2013 Proffers”) except to the extent that the 2005/2008/2012/2013 Proffers are specifically amended, replaced, or supplemented by the proffers of this ZMAP 2015-0007/ZCPA 2015-0013. Proffers of the

-

2005/2008/2012/2013 Proffers that continue in force and effect for the 2015 ZCPA Property and are unchanged by these Proffers are restated herein for information and convenience.

All proffers made herein are contingent upon approval of (i) ZMAP 2015-0007 and ZCPA 2015-0013 including rezoning of portions of the 2015 ZCPA Property to the Planned Development-Industrial Park (“PD-IP”) and Townhouse/Multifamily Residential (“R-16”) zoning classifications under the Zoning Ordinance as set forth in this ZMAP 2015-0007, and including the requested modifications as provided in the Zoning Ordinance Modifications updated ~~February-23~~ April 15, 2016 (included by reference as Exhibit A), and (ii) the Concept Development Plan, as defined in Proffer I below.

## **I. CONCEPT DEVELOPMENT PLAN**

Proffer I of the 2005/2008/2012/2013 Proffers is amended with respect to the 2015 ZCPA Property as follows: The development of the 2015 ZCPA Property shall be in substantial conformance with the Concept Development Plan (the “CDP”) (included by reference as Exhibit B), which is hereby identified as and composed of Sheets 5, 6, 6A, 6B, 7, 8 and 10A of 11 of the plans set entitled “One Loudoun Zoning Map Amendment/Zoning Concept Plan Amendment ZMAP 2015-0007, ZCPA 2015-0013, SPMI 2015-0008 & ZMOD 2015-0011,” dated July 15, 2015, and revised through ~~February-23~~ April 15, 2016, prepared by Gordon (the “Rezoning Plans”). Minor adjustments to the locations of the proposed uses, facilities and improvements shown on the CDP shall be permitted during site plan review as reasonably necessary to address grading, drainage, environmental, cultural and natural features, development ordinance requirements, and other final engineering considerations, and to accommodate the recommendations of archaeological studies. Any such minor adjustments shall be in accordance with Section 6-1209 of the Zoning Ordinance. All land development applications, including zoning permit applications, for development of all or any portion of the 2015 ZCPA Property shall include the applicable land bay designation(s) as identified on the CDP and the applicable Phase designation(s), if applicable, as set forth in Proffer III herein.

## **II. DEVELOPMENT SCOPE**

### **A. Residential Uses**

#### **1. Residential Mix**

Proffer II.A.1. of the 2005/2008/2012/2013 Proffers is amended in full with respect to the 2015 ZCPA Property as follows: Development of the Property will include a maximum of 1,765 residential units, inclusive of any required ADUs and as further described on Sheet 6A of the CDP, with related privately owned community facilities and amenities. Development of the 2015 ZCPA Property will include a maximum of ~~1,326~~ 1,138 residential units. Residential units shall be located in the PD-TC, PD-H6, and R-16 zoned land bays as such land bays are identified on Sheet 6A. The mix of residential units may include up to 265 single-family detached units, up to 370 single-family attached units and up to 1,130 multi-family units, with the understanding that up to two percent (2%) of the multi-family units may be converted to any combination of additional single-family attached and/or single-family detached units, provided that (1) the total

-

of 1,765 residential units is not exceeded and (2) the mix of single-family attached/detached and multi-family homes remain consistent with the Land Use Plan (sheet 10A of the CDP).

## 2. Affordable Dwelling Units

Affordable dwelling units (“ADUs”), as may be required by the Zoning Ordinance, shall be noted on applicable record plats or site plans. In accordance with Article 7 of the Zoning Ordinance, the Applicant shall provide 12.5 percent ADUs for single family attached and detached dwelling units and 6.25 percent ADUs for multi-family dwelling units. The Applicant reserves its ability to receive ADU exemptions for multi-family dwelling units that satisfy the Zoning Ordinance’s exemption requirements. The ADUs shall be provided in accordance with the Affordable Dwelling Unit provisions of Article 7 of the Loudoun County Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances. Of the ADUs required, four (4) shall be single family detached.

## 3. Work Force Housing

Twenty (20) of the multi-family homes constructed on the Property shall be provided as “Work Force Housing” and shall be available for purchasers whose income does not exceed 100% of Loudoun County’s Median Household Income. These units shall be administered pursuant to the Affordable Dwelling Unit Provision of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances, except that the income limit for qualified purchasers shall be 100% of the Loudoun County Median Household Income.

## 4. Age-Restricted Units

At least 80 percent of 40 multi-family residential units within the 2015 ZCPA Property shall be intended for, and occupied by, households with at least one full-time resident 55 years of age or older per dwelling unit in accordance with the criteria set forth in Va. Code Ann. §36-96.7, as amended (the “Age-Restricted Units”). Prior to site plan approval for the building(s) containing Age-Restricted Units, the Applicant shall submit for review and approval by the County a Declaration of Covenants (“Covenants”) governing development on the Property, which will require, in perpetuity, that qualification for occupancy of any of the designated Age-Restricted Units within the 2015 ZCPA Property shall be limited to households with at least one full-time resident who is age 55 or older (the “Age-Restricted Units”). The Covenants shall also provide that no person under 19 years of age may reside in such Age-Restricted Units for a period of time exceeding a total of 30 days in any consecutive 12-month period. Such Covenants shall be approved by the County and recorded prior to the issuance of zoning permits for the Age-Restricted Units.

## 5. Multi-family Design

Buildings containing multi-family units within the 2015 ZCPA Property shall contain a minimum of four (4) stories.

## **B. Commercial Uses**

Subject to the over-all development limits of the 2005/2008/2012/2013 Proffers applicable to the Property, Proffer II.B. of the 2005/2008/2012/2013 Proffers is amended in full with respect to the 2015 ZCPA Property as follows: Development of non-residential uses at the Property may include up to 430,800 sq. ft. of the uses permitted in the PD-OP zoning district, inclusive of up to 34,000 square feet of child care uses, up to ~~3,003,400~~2,978,400 sq. ft. of non-residential uses permitted in the PD-TC zoning district, up to 110,000 sq. ft. of continuing care uses permitted in the R-16 zoning district, up to ~~126,000~~151,000 sq. ft. of non-residential uses permitted in the PD-IP zoning district, and up to 409,464 sq. ft. of non-residential uses permitted in the PD-SA zoning district, inclusive of up to 109,464 sq. ft. of stadium related uses, including any permissible special exception uses for which the approval of the requisite special exception is received. Notwithstanding the foregoing, no more than 702,400 sq. ft. of retail uses (exclusive of the stadium, child care, continuing care, mini-warehouse, and hotel) shall be permitted on the Property. The stand-alone PD-CC district shall be administered as PD-CC(CC) – Community Center with up to 22,000 square feet of non-residential uses permitted in the PD-CC zoning district. Office, retail and hotel uses are all considered commercial uses for the purposes of these proffers, and specifically for the purposes of administering Proffer III, below.

## **C. Land Use Plan**

1. Proffer II.C.1 of the 2005/2008/2012/2013 Proffers is amended with respect to the 2015 ZCPA Property as follows, including the addition of subsection j: Sheet 10A of the CDP, bearing revision date of ~~December 17~~April 15, 201~~56~~5, is titled “Land Use Plan” and illustrates the mixture of office, retail, commercial, hotel, civic, special activity, mixed use, child care and residential uses permitted on the Property. The following definitions shall apply only with respect to the Land Use Plan. The following definitions limit uses that would otherwise be permitted by-right or, subject to approval of the requisite application, by special exception, in the applicable zoning districts, as set forth on Sheet 6A of the CDP.

a. Areas designated “Residential” shall permit single-family attached and single-family detached dwelling units.

b. Areas designated “Multi-family” or “Mixed-Use” shall permit buildings containing five or more dwelling units not having a separate lot and not meeting the definition of single-family attached dwelling as set forth in the Zoning Ordinance.

c. Areas designated “Civic” shall permit government offices, public meeting halls, libraries, art galleries or museums, post office, churches, places of gathering for the community, amphitheaters, and such other uses permitted by-right or by special exception, subject to approval of the requisite application, under the PD-H and PD-TC zoning districts.

d. Areas designated “Special Activity” shall permit any uses permitted by-right or by special exception, subject to approval of the requisite application, in the PD-SA zoning district, including a stadium with up to 5,500 general admission fixed seats exclusive of luxury boxes and suites, with an occupancy not to exceed 10,000 exclusive of staff, support, and safety personnel, except the following uses which shall not be permitted:

- 1) Airport
- 2) Fairground
- 3) Zoo
- 4) Country Club
- 5) Golf Course
- 6) Recreation Vehicle Park
- 7) Campground
- 8) College or university over 50,000 square feet of floor area
- 9) Hospital
- 10) Commuter parking lot
- 11) Bus terminal
- 12) Agriculture, horticulture, forestry, fishery
- 13) Mass transit facilities and stations
- 14) Farm supplies
- 15) Golf Driving Range
- 16) Amusement or Theme Park.

e. Areas designated “Public Use” shall permit any area, building or structure thereon to be held, used or controlled for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia or the Loudoun County government. (Not applicable to the 2015 ZCPA Property.)

f. Areas designated “Mixed-Use” shall permit any uses permitted by-right or by special exception, subject to approval of the requisite application, in the PD-TC zoning district except the following uses which shall not be permitted:

- 1) Agriculture, horticulture, forestry or fishery
- 2) Dwelling, single-family detached
- 3) Golf course
- 4) Construction retail establishment
- 5) Recycling drop-off collection center
- 6) Sewage treatment plant
- 7) Water treatment plant
- 8) Water storage tank
- 9) Crematorium
- 10) Automotive service station
- 11) Utility substation
- 12) Gas pumps

Rental agreements and/or sales contracts for any residential units located within 100 feet of the proposed stadium shall include a written disclosure statement regarding the location of the stadium, until such time that the stadium is open and operational. [Such rental agreements and/or sales contracts shall be submitted to the Zoning Administrator upon execution.](#)

Residential units fronting along Atwater Drive shall not be permitted in Land Bays A-6 and A-8 (this shall not preclude residential units in Land Bays A-6 and A-8 fronting other streets).

g. Areas designated “Commercial” shall permit any non-residential uses permitted by-right or by special exception, subject to approval of the requisite application, in the PD-CC zoning district.

h. Areas designated “PD-OP Office” shall permit any uses permitted by-right or by special exception, subject to approval of the requisite application, in the PD-OP zoning district.

i. Areas designated “Continuing Care Facility” shall permit any uses permitted by-right or by special exception, subject to approval of the requisite application, in the R-16 zoning district, except the following uses which shall not be permitted:

- 1) Dwelling, multifamily
- 2) Dwelling, single family, attached

j. Areas designated “PD-IP” shall permit any uses permitted by-right or by special exception, subject to approval of the requisite application, in the PD-IP zoning district, except the following uses which shall not be permitted:

- 1) Agriculture, horticulture, forestry, or fishery
- ~~2~~ [Commuter parking lot](#)
- ~~3~~ [Distribution facility](#)
- ~~24~~) Flex industrial use
- ~~35~~) Radio and television recording studio
- ~~46~~) Recycling drop off collection center, small or large
- ~~57~~) Wholesale trade establishment
- ~~68~~) Bakery, commercial
- ~~79~~) Dwelling, accessory to a permitted or special exception use
- ~~10~~ [Warehousing facility](#)
- ~~811~~) Auction house
- ~~912~~) Water pumping station
- ~~1013~~) Utility substation, dedicated
- ~~1114~~) Sewer pumping station
- ~~1215~~) Motor vehicle service and repair, light or heavy
- ~~16~~ [Telecommunications monopole](#)
- ~~17~~ [Funeral home](#)
- ~~1318~~) Outdoor storage, accessory
- ~~1419~~) Contractor service establishment
- ~~1520~~) Motorcycle or ATV sales, rental, repair and associated service
- ~~21~~ [Data center](#)
- ~~1622~~) Golf driving range or golf course
- ~~1723~~) Heliport, helistop
- ~~1824~~) Hospital
- ~~1925~~) Public utility service center
- ~~2026~~) Sewage treatment plant
- ~~2127~~) Utility substation, transmission or distribution
- ~~2228~~) Utility transmission lines, overhead
- ~~2329~~) Water treatment plant



- ~~24~~30) Printing plant
- ~~25~~31) Dry cleaning plant
- ~~26~~32) Automotive service station
- ~~27~~33) Car wash
- ~~28~~34) Motor vehicle rental
- ~~29~~35) Water storage tank
- ~~30~~36) Parking lot/valet service, long-term
- ~~31~~37) Heavy equipment and specialty vehicle sales, rental, repair and accessory service

#### **D. Building Heights**

1. Buildings in Land Bays A-1, A-2 and A-5 fronting along the portion of Atwater Drive, parallel to Route 7 shall be constructed to heights of at least four stories, provided, however, that buildings fronting along Exchange Street, Endicott Drive, Northpark Drive, Freetown Boulevard and other internal streets shall not be required to meet this minimum height requirement. Buildings in Land Bays A-5, A-6 and A-8 fronting along that portion of Atwater Drive that is parallel to Loudoun County Parkway shall be constructed to heights of at least two stories, provided, however, that buildings fronting along Endicott Drive, Thorndike Street, Russell Branch Parkway and other internal streets shall not be required to meet this minimum height requirement. Notwithstanding the above, the stadium and its affiliated uses to be located in Land Bay A-5 shall not be subject to this proffer II.D.1.

2. The height of the stadium building in Land Bay A-5 shall not exceed 75 feet. Other buildings in Land Bay A-5 shall not be subject to this height limitation.

#### **E. Stadium Design**

1. Proffer II.E.1 of the 2005/2008/2012/2013 Proffers is amended with respect to the 2015 ZCPA Property as follows: The architecture, design, elevations, materials and height of the stadium in Land Bay A-5 shall be ~~designed of high-quality architecture and building materials. The ultimate architecture, design, elevations, materials and heights shall be~~ in conformance with the Design Guidelines prepared by the Eisen Group (included by reference as Exhibit C) and approved by the POA described below in Proffer VI.

2. The Applicant shall continue to work with representatives of the Department of Fire, Rescue and Emergency Management (“Fire and Rescue”) regarding the design of the stadium, to ensure that safe and adequate access for fire and rescue services and personnel is in place prior to occupancy and after construction of the stadium. The Applicant shall arrange a site visit prior to opening day to allow Fire and Rescue to develop an emergency response plan for the stadium. When parking structures are proposed, the Applicant shall solicit input from Fire and Rescue regarding access and circulation of emergency vehicles (and/or personnel) to include any proposed elevators. After opening the stadium, the Applicant shall meet upon the request of Fire and Rescue as needed to review and update fire and rescue plans and procedures.

3. For uses within the PD-SA zoning district proposing a building separation less than 25 feet, the Applicant shall submit a copy of site plan application(s) submitted to Loudoun

-

County, to the Department of Fire and Rescue for review and comment to be provided within the Loudoun County site plan review timelines.

Proffer III of the 2005/2008/2012/2013 Proffers is amended with respect to the 2015 ZCPA Property as follows:

### **III. PHASING**

Subject to the over-all development limits of the 2005/2008/2012/2013 Proffers, the development of the Commercial and Residential Uses within the 2015 ZCPA Property shall be developed in not less than three (3) phases: Phase I, Phase II and Phase III, as follows. For the purposes of these Proffers of ZMAP 2015-0007, ZCPA 2015-0013:

- All zoning permits approved for residential units located anywhere within the Property shall be counted in determining whether the maximum residential unit limits of development of the 2015 ZCPA Property have been reached for the particular Phase; and
- All zoning permits approved for non-residential, including office, development located anywhere within the Property shall be counted in determining whether the minimum square footages of non-residential and office development required for the 2015 ZCPA Property have been reached for the particular Phase; and
- The term “the commencement” of the Phase shall mean the approval of the first zoning permit for any development in the Phase.

#### **A. Phase I**

1. Commercial Office, Hotel and Retail in Phase I. The total number of zoning permits for residential units to be approved during Phase I shall not exceed 450 units. The Applicant shall also be entitled to obtain zoning permits for up to 34,000 square feet of child care uses in the B-53 Land Bay. The Applicant shall be entitled to obtain zoning permits for up to 110,000 square feet of continuing care facility uses in the C-6 Land Bay. In addition to any other improvements to be completed (or bonded for construction) pursuant to these Proffers, prior to the commencement of Phase II, the Applicant shall have received zoning permits for at least 1,000,000 square feet of non-residential development, of which at least 500,000 square feet shall be office, as further enumerated in Proffer II.B., above. However, in the event that (a) the Applicant has bonded and commenced construction of the Route 7/ Ashburn Village Boulevard Interchange in accordance with Proffer VIII.A. and B. below, provided that “commenced construction” includes that 1) the County has acquired all of the necessary right-of-way and easements, 2) erosion and sediment controls are in place, 3) the pre-construction meeting between the County and the Applicant has occurred, and 4) clearing and grading has commenced, and (b) the Applicant has received zoning permits for at least 300,000 square feet of non-residential development on the Property, the Applicant shall be entitled to receive the remainder of all not-yet-issued residential and non-residential building permits at the Property and the language of Proffers III.B and III.C., below, shall be of no force or effect. Notwithstanding the previous sentence, other Proffers triggered by development levels identified for Phase II and III, below (including but not limited to Proffer V.C.2 regarding the completion



-

of pedestrian trails), shall continue to be triggered by specified number of residential units permitted in each Phase. The intent of this amendment of Proffer III.A.1. is that, upon the bonding and commencement of construction of the Route 7/ Ashburn Village Boulevard Interchange as set forth in these proffers, the development of the 2013 ZCPA Property shall no longer be subject to the Phasing limits upon residential and non-residential development otherwise applicable to the 2013 ZCPA Property.

2. Phasing of Retail and Residential. Prior to the approval of the first residential occupancy permit, the Applicant shall have pre-leased a minimum of 100,000 square feet of retail development for the Property. Specifically, the Applicant will present to the County executed leases (the business terms may be deleted as proprietary information) of a minimum of 100,000 square feet of space within One Loudoun; for purposes of satisfying this proffer, these leases may include retailers, movie theater and/or restaurants. [This proffer has been fulfilled.]

## **B. Phase II**

1. The total number of zoning permits for residential units to be approved during Phase I and Phase II shall not cumulatively exceed 900 units.

2. In addition to any other improvements to be completed (or bonded for construction) pursuant to these Proffers, prior to the commencement of Phase III, the Applicant shall have received zoning permits for at least a cumulative total of 2,150,000 square feet of non-residential development, as further enumerated in Proffer II.B., above. Of the non-residential development required to be completed in Phase II, zoning permits for at least 750,000 square feet of office uses (in addition to the 500,000 square feet of office uses to be developed in Phase I) shall have been received as part of Phase II and prior to Applicant proceeding to Phase III.

3. In the event that a zoning permit has been approved for a stadium use, the Applicant shall be relieved of the requirements of this Proffer III.B.2. and shall instead be bound by the following phasing requirements:

a. Phase IIA. In addition to any other improvements to be completed (or bonded for construction) pursuant to these Proffers, prior to the commencement of Phase II.B or Phase III, the Applicant shall have received zoning permits for at least a cumulative total of 1,250,000 square feet of non-residential development, of which at least a cumulative total of 500,000 square feet shall be office. The Applicant shall be permitted to receive zoning permits for up to a cumulative total of 725 of the 900 residential units permitted in Phase I and Phase II.

b. Phase IIB. In addition to any other improvements to be completed (or bonded for construction) pursuant to these Proffers, prior to the commencement of Phase III, the Applicant shall have received zoning permits for at least a cumulative total of 2,150,000 square feet of Phase I and Phase II non-residential development, of which at least a cumulative total of 1,000,000 square feet shall be office, as further enumerated in Proffer II.B, above.

## **C. Phase III**

Upon fulfillment of any other improvements to be completed (or bonded for construction) pursuant to these Proffers prior to Phase III, Applicant shall be entitled to receive zoning permits

-

for any remaining permitted non-residential development and residential units not issued during Phase I or Phase II.

#### **IV. RETAIL AND STADIUM USE LIMITATIONS**

##### **A. Large-scale Tenant Restrictions**

The Applicant proffers that it shall not solicit the existing department stores (a retail establishment that carries several lines of merchandise, such as men's and women's ready-to-wear clothing and accessories, piece goods, small wares and home furnishings where merchandise is segregated into different departments, each having a specialist manager) which are currently located within an enclosed regional mall within 2.5 miles of the Property, to relocate to the Property. Other department stores may be included within One Loudoun. The Applicant agrees to have no more than one (1) department-store retail tenant larger than 50,000 square feet within One Loudoun. These restrictions do not apply to movie theaters, gym/work out and recreation facilities, grocery stores or any other retail use or tenant. In addition, should the Applicant desire to seek any more than one (1) department-store tenant within One Loudoun of greater than 50,000 square feet, the Applicant will then have to pursue a Zoning Concept Plan Amendment ("ZCPA") to seek the County's approval for such user.

##### **B. Stadium Uses and Guidelines**

###### **1) Number of Events**

a. There shall be no limit to the number of athletic competitions that are held in the stadium.

b. Events involving live performance(s) by musical act(s) utilizing a sound amplification system, for which the primary purpose of attendees is the observation and enjoyment of the musical performance(s) ("Concerts"), shall be limited to 17 occurrences per calendar year. Notwithstanding the foregoing, the limitation on Concerts shall not apply to events that are hosted by the County or its agencies or non-profit organizations (such as, but not limited to the Loudoun Symphony, the Sterling Playmakers, etc.).

###### **2) Start Times**

a. Athletic events may be held on any day of the week. Weekday athletic events shall not start between 4:30 pm and 7:00 pm. There shall be no start time limitations for athletic events on Saturdays, Sundays, and Federal holidays (Memorial Day, the 4<sup>th</sup> of July, Labor Day, and Columbus Day ("Holidays")).

b. Concerts shall be held only on Fridays, Saturdays, Sundays, and Holidays. Concerts on Fridays shall not start between 4:30 pm and 8:00 pm. There shall be no limitations on the start times of such events on Saturdays, Sundays and Holidays. Concerts held on Fridays and Saturdays shall conclude before 11:00 pm. Concerts held on Holidays shall conclude before 10:00 pm. Concerts held on Sundays shall conclude before 9:00 pm.

-

c. Notwithstanding the language of Proffer IV.B.(2)(b) above, up to three (3) Concerts may be held each year on Mondays, Tuesdays, Wednesdays or Thursdays during summer break (that is, the recognized summer time period when Loudoun County Public Schools are not in session), provided that such Concerts start before 4:30 pm and no more than 3,500 tickets are sold for such Concerts.

d. Events that are neither athletic events nor Concerts may be held on any day of the week. Such events shall not start between 4:30 pm and 8:00 pm on weekdays. There shall be no start time limitations for these events on Saturdays, Sundays, and Holidays.

3) Use of Fireworks.

a. Firework and/or pyrotechnic displays shall not occur more than 12 times per calendar year. Firework and/or pyrotechnic displays shall only occur on Fridays, Saturdays, Holidays, and any opening day(s) of a regular season for a team whose home facility is the Stadium at One Loudoun. Notwithstanding the preceding sentence, fireworks and/or pyrotechnic displays shall not occur on two or more consecutive days. Notwithstanding the foregoing, there shall be no limit on firework and/or pyrotechnic displays that are set off from within the stadium.

b. Any fireworks and/or pyrotechnics display shall be limited to 10 minutes in duration with no more than one (1) such 10-minute display per day.

c. Subject to any approval or requirement by the fire marshal to the contrary, any fireworks and/or pyrotechnics display shall be directed away from the Great Blue Heron rookery which is located to the southeast of One Loudoun.

d. Shells used in any fireworks and/or pyrotechnics display shall not exceed 3 inches.

e. All fireworks displays shall conclude prior to 11 p.m.

f. Any staging and/or launching areas needed for fireworks and/or pyrotechnics displays shall be located within the area of the Property bounded by Route 7 to the north, Loudoun County Parkway to the east, Thorndike Street to the south and Northpark Drive to the west.

4) Noise Control. Except as otherwise regulated by the provisions of the Noise Standards in Article 5 of the Loudoun County Zoning Ordinance:

a. A maximum increase of 9 dBA above existing background (Typical Average) noise levels, as established by the acoustical analysis dated January 4, 2013 and prepared by Miller, Beam & Paganelli, Inc., shall be permitted for any stadium events.

b. At no time shall noise levels from stadium events exceed 65 dBA Lmax, as measured at the Property boundary adjacent to residential uses. Notwithstanding the foregoing, firework and/or pyrotechnic displays that have been permitted through the Loudoun County Fire Marshal's office shall not be subject to this noise limitation.

-

c. To ensure that the noise thresholds set out above are met, the Applicant shall utilize a minimum of three (3) noise monitors within the Applicant's Property to track sound emanating from the stadium on a continual basis through the duration of all Concerts.

i. The locations of the monitors are subject to change as conditions change.

ii. Such monitors shall be utilized during all Concerts and the results shall be monitored so as to enable the Applicant to comply with this proffer.

iii. The data collected during such Concerts shall be provided in report form to the Board of Supervisors, the Zoning Administrator, and to the Potomac Greens Homeowners Association and the Ashbrook Homeowners Association. Said reports shall be (a) prepared by a professional acoustical consulting firm approved by the County and (b) provided on a monthly basis (to the extent that Concerts are held during the preceding month) for the first two years, after which point reports shall be provided on a semi-annual basis, unless sooner requested by any of the parties listed above.

d. Contracts for Concerts shall include provisions that ensure any entertainment provider shall comply with these noise requirements.

5) Lighting. All pole-mounted lighting installed shall be MUSCO Light Structure Green™ or performing equivalent and shall be in substantial conformance with Exhibit F to these proffers entitled "Conceptual Illumination Summary" dated March 4, 2013 and prepared by Musco Sports Lighting LLC. All replacement lighting shall match the existing lighting model or provide more technologically advanced lighting that reduces off-site glare or reflection. Pole-mounted lights shall be directed inward and downward toward the field to avoid impacts to surrounding uses and roadways and such maximum impacts are demonstrated on Exhibit G to these proffers entitled "Illumination Summary" dated January 2013 and prepared by William H. Gordon Associates. Pole-mounted stadium lights shall not be illuminated for more than one hour after the end of an event. This limitation shall not preclude the use of other lights for safety or security purposes.

## **V. RECREATIONAL AMENITIES, PARKS AND PEDESTRIAN ACCESS**

### **A. Recreational Park Facilities**

Proffer V.A of the 2005/2008/2012/2013 Proffers is amended with respect to the 2015 ZCPA Property as follows: The Applicant shall construct recreational amenities, neighborhood parks, and pedestrian connections within the Property as specified within this Proffer V. If not otherwise required at an earlier point, construction of these amenities shall be done in conjunction with the development of the adjacent neighborhoods and the construction of the adjacent streets and infrastructure.

### **B. Central Park and Other Parks [This proffer has been fulfilled.]**

1. The Property's main park, Central Park, shown on Sheets 5 and 6 of the CDP is primarily a passive open space area. Central Park shall include a trail network and shall include other amenities, such as tot lots, gazebos and other permitted uses and structures. Central Park shall be owned and maintained by the One Loudoun Master Association, to be established pursuant to the provisions of Proffer VI.

2. The Applicant shall commence construction of a major community facility in Land Bay E-2 (not located within the 2013 ZCPA Property) prior to the approval of the occupancy permit for the 450<sup>th</sup> residential unit or the 1,000,000<sup>th</sup> square foot of non-residential development at the Property, whichever occurs later. Prior to the approval of the 751<sup>st</sup> residential zoning permit at the Property (which would occur during the Phase II development), this major community recreation facility shall be open to use by members of the Property Owners Association. The said facility shall include, but not be limited to, a swimming pool (which shall be a minimum of 25 meters in length and 6 lanes in width) and bathhouse (consisting of a minimum of 7,500 square feet, which will include a meeting room, restroom facilities and bathhouse and associated facilities), two multi-purpose courts, two tennis courts and associated parking.

3. Prior to the issuance of the 950<sup>th</sup> residential zoning permit at the Property (which will occur during Phase III of the development) an outdoor performance theatre/amphitheatre and stage will be developed in Land Bay O-7. The facility will include a covered performance stage and open space/lawn seating for at least 50 audience members along with integrated trails to allow pedestrian access (no parking will be provided) to the One Loudoun community.

4. The Applicant shall also provide at least one (1) tot lot in the B - Land Bays (not located within the 2013 ZCPA Property)(which shall be provided prior to the issuance of the 225<sup>th</sup> residential zoning permit within the B - Land Bays) and at least one (1) tot lot in the C - Land Bays (which shall be provided prior to the issuance of the 100<sup>th</sup> residential zoning permit within the C - Land Bays). Applicant shall have the right, but not the obligation, to provide additional tot lots at other locations throughout the Property.

### **C. Pedestrian Trails**

1. The Applicant shall construct a network of pedestrian trails of asphalt, or other hard surface (as shown on Sheets 7 and 8 of the CDP as an 8' minimum shared use trail and a 5' minimum pedestrian sidewalk/trail) to connect the various community and public facilities within the Property.

2. Prior to commencement of Phase II (that is, the issuance of the 451<sup>st</sup> residential zoning permit at the Property), Applicant shall have completed construction of at least one, 5' minimum pedestrian sidewalk/trail connecting the western side of Central Park to the eastern side of Central Park. The trails within Central Park shall be constructed in phases in conjunction with the development of areas surrounding and contiguous to Central Park. All crossings of Central Park, as shown on the Concept Plan, shall be provided prior to the commencement of Phase III (that is, the issuance of the 901<sup>st</sup> residential zoning permit at the Property). [This proffer has been fulfilled.]

3. All trails shall be either in a right of way or in a public access easement and shall be constructed in accordance with the Loudoun County Facilities Standards Manual (“FSM”).

4. Sidewalks will be provided on both sides of all internal subdivision streets (excluding the Land Bay C frontage of Russell Branch Parkway) projected to have an average daily traffic volume greater than 5,000 vehicles.

5. Sidewalks shall be provided along alleys adjacent to structured parking in order to provide pedestrian access.

#### **D. Bicycle Parking**

The Applicant shall provide bicycle parking, where appropriate in Applicant’s discretion, at various locations throughout the Property. At least four (4) bicycle parking areas will be provided, which will consist of at least two (2) separate parking areas north of Russell Branch Parkway during Phase I and two (2) separate parking areas south of Russell Branch Parkway during Phase II (that is, prior to the issuance of the 901<sup>st</sup> residential zoning permit at the Property).

#### **E. Stadium Use by Loudoun County**

The stadium operator shall work with the Loudoun County Parks and Recreation Department to allow the reasonable community use of the stadium, subject to a separate agreement to be negotiated with the Board of Supervisors.

#### **F. Indoor Recreation Establishment/Community Center**

~~Prior to 1. The issuance of the 1,100<sup>th</sup> residential zoning permit within the 2015 ZCPA Property, Applicant shall develop~~ an indoor recreation establishment/community center of a minimum of 80,000 square feet ~~will be developed that will be owned and operated by Loudoun County (the “Recreation Facility”). The Recreation Facility shall be located~~ in either the PD-TC or PD-SA zoning district. ~~The establishment will be owned and operated by Loudoun County and, if permitted by a future amendment to the Revised 1993 Zoning Ordinance. The Recreation Facility~~ shall include a hard surface court that may be used for a minimum of twelve (12) volleyball courts and/or six (6) basketball courts or combination thereof, bleacher seating for spectators, and management offices.

2. At least six (6) months prior to filing a site plan for the Recreation Facility, the Applicant shall provide written notice to the County of its intent to construct the facility. If the County elects to receive per-unit capital facilities contributions in lieu of accepting the Recreation Facility, it shall notify the Applicant in writing within 60 days of receipt of the notice.

a. If the County provides written notice to the Applicant that it elects to receive per-unit capital facilities contributions in lieu of accepting the Recreation Facility, then, within 120 days of receipt of the notice, the Applicant shall provide a one-time capital facilities contribution for any residential units for which a zoning permit has been received within the 2015 ZCPA Property, less the 413 units approved pursuant to the 2005 ZMAP. The Applicant shall then pay



-

any future capital facilities contributions on a per-unit basis at the time of zoning permit issuance and shall be relieved of its obligation to construct the Recreation Facility.

b. If the County does not provide notice within 60 days, then the Applicant shall proceed with construction of the Recreation Facility. Prior to the issuance of the 900<sup>th</sup> residential zoning permit within the 2015 ZCPA Property, the Applicant shall either 1) dedicate the completed Recreation Facility to the County or 2) execute a long-term lease with the County at a rate not to exceed \$1.00 per year for the completed Recreation Facility, at which point the Applicant shall be entitled to receive all remaining residential zoning permits within the 2015 ZCPA Property.

## **VI. PROPERTY OWNERS ASSOCIATION**

### **A. POA General Responsibilities**

All property owners in One Loudoun shall be a member of a Property Owners Association (“POA”) established to regulate use and provide standards for the construction, landscaping and use of privately owned land and structures within the Property. Notwithstanding the foregoing, the Public Use Site identified on Sheet 6 of the CDP shall not be a member, or subject to the declaration, of the POA. The Applicant intends to establish an overall, umbrella POA (the “One Loudoun Master Association”) with a number of sub-associations which may be composed of any one or more of the following: a commercial POA, a retail POA, a residential POA, and/or condominium associations (collectively referred to herein as the “POA”). The POA shall provide (or shall appoint responsibility among the sub-associations for) landscaping and lawn maintenance for all common areas and snow removal on all private streets, and shall contract for trash removal services. The POA and/or the sub-associations shall be responsible for the maintenance of all common recreational facilities and buildings, all stormwater management facilities, all private streets, and all sidewalks and trails, including the regional bicycle trail, not otherwise maintained by Loudoun County (the “County”) or the Virginia Department of Transportation (“VDOT”).

### **B. Establishment of POA**

Prior to the approval of the first record plat or site plan, whichever is first in time, in One Loudoun, draft documents for the establishment of the POA and sub-associations shall be submitted to the County for review and approval. The POA shall be established prior to the approval of the first record plat or site plan for the Property, whichever is first in time. [This proffer has been fulfilled.]

### **C. POA Design Standards**

In order to provide for the implementation of design concepts, the POA covenants shall require the establishment of a design review committee and shall require said committee to adopt design standards in general conformance with the Design Guideline Policies presented with this application and included by reference as Exhibit C (dated January 5, 2007). The guidelines shall provide for the regulation of street frontage and architectural standards that will ensure the development of a unified community. The POA design review committee shall be established and its design guidelines imposed within three (3) months of the creation of the POA and shall review all development plans. [This proffer has been fulfilled.]

## **VII. TRANSPORTATION**

### **A. Russell Branch Parkway Dedications and Improvements**

1. The Applicant shall dedicate 120 feet of right-of-way, along with all necessary construction and maintenance related easements located outside of the right-of-way, to accommodate a 6-lane median divided section of Russell Branch Parkway through the Property in the general locations depicted in the CDP. Additional right-of-way, if needed, shall be dedicated to accommodate turn lanes. Said right-of-way shall be dedicated in sections in conjunction with approved construction plans and profiles for Russell Branch Parkway. The right of way will be dedicated prior to or in conjunction with approval of the first adjacent record plat, or first adjacent site plan, whichever is first in time, for development on the Property. [This proffer has been fulfilled.]

2. The Applicant shall construct in sections and phases (as surrounding development occurs) 4-lane divided Russell Branch Parkway between Loudoun County Parkway and the terminus of existing Russell Branch Parkway at the Property's northwestern edge, including necessary turn lanes. Applicant shall complete construction of these portions of Russell Branch Parkway prior to commencement of Phase II. [This proffer has been fulfilled.]

3. Access from the Property to Russell Branch Parkway shall be limited to the general locations of the intersections shown on the CDP.

4. Prior to the issuance of the 901<sup>st</sup> residential zoning permit at the Property, the Applicant shall construct a second left turn lane from eastbound Russell Branch Parkway to northbound Loudoun County Parkway within the existing right of way.

### **B. Marblehead Drive Dedications and Improvements**

1. The Applicant shall dedicate 90 feet of right-of-way, along with all necessary construction and maintenance related easements located outside of the right-of-way, to accommodate a 4-lane median divided section of Marblehead Drive through the Property in the general locations depicted in the CDP. Additional right-of-way, if needed, shall be dedicated to accommodate turn lanes. Said right-of-way shall be dedicated in sections in conjunction with approved construction plans and profiles for Marblehead Drive. The right of way will be dedicated prior to or in conjunction with approval of the first adjacent record plat, or first adjacent site plan, whichever is first in time, for development on the Property. [This proffer has been fulfilled.]

2. The Applicant shall construct and open to traffic two lanes of Marblehead Drive between Loudoun County Parkway and the western property boundary as adjacent record plat or site plan approvals are obtained, as required by the County's Land Subdivision and Development Ordinance. [This proffer has been fulfilled.]

### **C. Loudoun County Parkway/ Route 7 Interchange Land Dedication**

-

Upon written request from the County and/or VDOT, the Applicant shall dedicate the right-of-way as shown on Sheet 5 of the CDP, which is necessary to accommodate an urban diamond interchange, along with all necessary construction and maintenance related easements located outside of the right-of-way, for an urban diamond interchange at the intersection of Loudoun County Parkway and Route 7 (the “Interchange”). To the extent permitted by the Loudoun County Zoning Ordinance, Applicant hereby and specifically reserves any and all density credit for this right-of-way. [This proffer has been fulfilled.]

**D. Loudoun County Parkway/Thorndike Street (Road 5-A) Intersection**

The intersection of Loudoun County Parkway and Thorndike Street is shown on the CDP as a right-in/ right-out intersection; however, in accordance with the 2005/2008/2012 Proffers, VDOT and the County have approved this as a full intersection with full turning movements. The Applicant has prepared and submitted a warrant study for this intersection to VDOT, which concludes that a signal is warranted at this intersection. Prior to the certificate of occupancy being approved for the stadium, the Applicant shall install (at its sole cost) a traffic signal at this intersection. Further, the Applicant shall fund and install the equipment necessary to ensure traffic signal synchronization at intersections along its Loudoun County Parkway frontage, also subject to VDOT approval. [This proffer has been fulfilled.]

**E. Signalization**

1. The Applicant shall fund the warrant analyses, design and installation of the initial traffic signal systems on Loudoun County Parkway at Russell Branch Parkway, Marblehead Drive and, as provided in Proffer VII.D above, at Thorndike Street. [This proffer has been fulfilled.]

2. The Applicant shall fund the warrant analysis for each of the intersections referred to in Proffer VII.E.1. concurrent with the submission of the first subdivision or site plan (whichever is first in time) for development contiguous to each of these intersections. [This proffer has been fulfilled.]

3. The Applicant shall fund, at its sole cost, the design and installation of a traffic signal system at the intersection of Russell Branch Parkway and Atwater Drive when VDOT has determined that this signal is warranted. Applicant shall prepare and submit a warrant study for this intersection to VDOT within one year of the approval of a certificate of occupancy for the stadium.

4. The Applicant shall fund, at its sole cost, the design and installation of a traffic signal system at the intersection of Russell Branch Parkway and Exchange Street when VDOT has determined that this signal is warranted. Applicant shall prepare and submit a warrant study for this intersection to VDOT within one year of the approval of a certificate of occupancy for the stadium. [This proffer has been fulfilled.]

5. In the event the warrants for any of these signals described in this Proffer VII.E. have not been approved by VDOT at the time of approval of the 900th residential zoning permit

-

at the Property, the Applicant shall contribute to the County \$150,000 for each unwarranted signal concurrent with the issuance of such residential zoning permit.

**F. Advance Dedication of Right-of-Way**

In the event that the County or others proceed with the construction of Russell Branch Parkway or Marblehead Drive through the Property prior to the Applicant's proffered construction schedule, the Applicant shall dedicate the rights-of-way and necessary associated construction and maintenance easements for such roads, as long as the locations of the rights-of-way are in substantial conformance with the CDP. Further, Applicant shall not be required to dedicate such right-of-way or easements until and unless construction plans and profiles have been submitted and approved by all necessary parties for such roads. [This proffer is no longer applicable, because the Applicant constructed Russell Branch Parkway and Marblehead Drive.]

**G. Construction of Improvements by Others**

In the event that any improvements listed in VII.A or VII.B above are constructed and paid for by others, the Applicant shall contribute to Loudoun County an amount equivalent to the verified actual cost of the improvements, as substantiated by paid invoices. Such contribution shall be paid to Loudoun County at the time the Applicant's obligation to construct such road improvements would have occurred under the terms of these Proffers. [This proffer is no longer applicable, because the Applicant constructed the improvements listed in VII.A or VII.B]

**H. Bus Network**

A bus system such as, but not limited to, a regional bus service (such as provided by Washington Metropolitan Area Transit Authority or recognized alternative) or a local bus service (such as provided by Virginia Regional Transit Association or recognized alternative) shall service the Property prior to the commencement of Phase III. If bus service is not provided to the Property at such time by a public entity or third-party vendor or provider, Applicant shall create and fund an internal bus system consisting of at least one bus, van or other vehicle to facilitate movement within the Property during normal business hours. [This proffer has been fulfilled.]

**I. Bus Shelters**

Applicant shall construct a minimum of four (4) bus shelters at the Property in locations to be coordinated during the site plan approval process with the Office of Transportation Services or such other appropriate Loudoun County agency. At least two (2) bus shelters shall be approved and under construction prior to the issuance of the 451<sup>st</sup> residential zoning permit at the Property; at least four (4) bus shelters shall be constructed prior to the issuance of the 750<sup>th</sup> residential zoning permit at the Property. Any bus shelter to be constructed in accordance with this commitment shall be enclosed on three (3) sides, have a roof and shall meet the County's minimum bus shelter design standards.

**J. Alleys in PD-TC District**

-

The Applicant shall provide an alley for each block in the Town Center Core and Fringe. In addition, the Applicant shall ensure at least one (1) mid-block pedestrian connection through Landbays A-2 and A-4.

**K. Construction of Transportation Improvements**

For the purposes of these Proffers the term “construct” is intended to mean constructed or bonded for construction and does not necessitate acceptance into the VDOT system prior to the issuance of a specified zoning permit.

**L. Transportation Operations Plan**

The Applicant shall develop a Transportation Operations Plan for athletic events, Concerts, and other events at the stadium, as well as for any convention or exhibition facility greater than 50,000 square feet, that may include such items as traffic control measures, at what intersections police and/or traffic control personnel, if needed, should be located, special parking provisions, which could include limiting on-street parking and directing vehicles to satellite lots within the One Loudoun community, limiting or restricting access to certain streets, identifying pedestrian routes, maintaining adequate bus stop access, and facilitating the rerouting of any transit service around restricted areas in the event of street restrictions and/or limitations, among other things, and submit it to the County for review prior to receipt of final site plan approval for the stadium. The Transportation Operations Plan will be reviewed annually and updated as appropriate based on mutual agreement and coordination with the County.

**M. Transit for Stadium Attendees**

The Applicant shall work with the Loudoun County Department of Transportation and Capital Infrastructure (f/k/a the Office of Transportation Services) to evaluate demand and identify viable options for providing stadium attendees access to the stadium from a Metrorail station in Loudoun County before and after athletic games, Concerts, and other events. These options may include (but are not limited to) the Applicant funding extended hours of local fixed route transit services or funding the rerouting of local fixed route transit services to provide access to and from the stadium. To the extent there is adequate demand as reasonably determined by the County in consultation with the Applicant, the Applicant, at Applicant’s expense, shall meet this transportation need. The identification of a viable option shall occur no later than one year prior to the scheduled opening of the Route 772 Metrorail Station and the selected option shall begin operation commensurate with the opening of the Route 772 Metrorail Station.

**VIII. CONSTRUCTION OF ASHBURN VILLAGE BOULEVARD INTERCHANGE**

**A. Design, Timing of Design and Plans and Construction of the Ashburn Village Boulevard/Route 7 Interchange** [This proffer has been fulfilled.]

1. The Applicant shall design, at its sole cost and expense, the Ashburn Village Boulevard\Route 7 Interchange, including the associated entrance and exit ramps (“Interchange”) such that Loudoun County and its agents and the Virginia Department of Transportation (“VDOT”) may issue appropriate permits and approvals allowing for the Interchange to be

-

constructed by the Applicant.

2. The Applicant has submitted and attached to these Proffers a conceptual sketch for the Interchange (included as Exhibit D) (reflecting the basic design and proposed configuration; that is, generally, of a typical diamond configuration with the ramps being offset from the mainline bridge and constructed of earth embankment sections).

3. The Applicant shall submit a preliminarily engineered and designed plan that complies with Chapter 2A of Virginia Department of Transportation Road Manual Volume I, sections 2A-4 through 2A-7 within eight (8) months of approval (by Loudoun County, VDOT and any other governing authority) of its conceptual plan for the Interchange. The dedication of right-of-way for the Interchange, as required by Proffer VIII.B.2., shall be in conformance with the preliminary engineered and designed plan.

4. The Applicant shall submit its final, fully engineered plans for the Interchange upon both (a) the County's approval of the Applicant's first submitted site plan, Construction Plans and Profiles ("CPAP") or preliminary subdivision plat (whichever comes first) and (b) within six (6) months of approval (by Loudoun County, VDOT and any other governing authority) of its preliminary design for the Interchange. The Applicant's proposed construction schedule and phasing of the Interchange, based upon existing and projected traffic counts, will be submitted with these final plans.

#### **B. Timing and Pre-Construction Events for Interchange**

The Applicant shall, within three (3) months after the fulfillment\completion of all of the following, noted events, bond the approved Interchange and commence construction immediately thereafter, and exercise all due diligence to complete construction of the Interchange as soon as commercially practicable:

1. Final approval of its fully engineered Interchange plans by the County, Loudoun County Sanitation Authority ("LCSA"), VDOT and any other governing authority;

2. Dedication and or conveyance to the County, LCSA, VDOT and any and all other utility companies and entities (including but not limited to electric, telephone and cable television companies), of all necessary rights-of-way and easements required for utilities, storm drainage, construction and maintenance of the approved Interchange design (all at no cost to the Applicant);

3. Issuance of the Applicants' first residential or non-residential zoning permit by Loudoun County, whichever comes first;

4. The bonding and award of a final contract by Loudoun County for the complete construction of the Loudoun County Parkway\Route 7 grade-separated interchange (which is located contiguous to the Property and east of the Ashburn Village Boulevard\Route 7 Interchange);

5. The commencement of construction of the Loudoun County Parkway\Route 7 grade-separated interchange;



-

6. Provision of \$5 million to the Applicant (to off-set the costs of utility relocation, provision of storm water management, wetlands mitigation, permitting costs and traffic management plans associated with the construction of this Interchange) from Loudoun County (through sufficient proffer funding from other landowners currently seeking zoning approvals, from those having previously received zoning approval in the vicinity of the Subject Property, from the allocation of proffer monies held or anticipated-to-be-held by Loudoun County and/or from any other sources);

7. Issuance of any and all required permits by any and all agencies having jurisdiction for the Ashburn Village Boulevard\ Route 7 Interchange construction to commence; and

8. The construction by the Applicant of the Ashburn Village Boulevard Interchange shall not be governed by the provisions of Proffer VII.K.

**C. County Option and Alternative to Construction of Interchange – Completion of Design and Contribution of \$20 Million**

1. Prior to the time of fulfillment of all the conditions of VIII.B. 1 through 8 (or such other time as mutually agreed to by the Applicant and the Board of Supervisors) the County, by a final, majority vote of the Board of Supervisors, may direct the Applicant, in writing, to provide funds to the County, or its designee for the construction of the Interchange. Applicant shall make the following three (3) installment payments, totaling \$20 million dollars (not subject to the escalation provision of any other Proffers):

- a. first \$6 million paid concurrent with the issuance of the first residential zoning permit for Phase 1 by the County, if not previously issued, or upon receipt of notice by the County if the first residential zoning permit has been issued,
- b. an additional \$8 million contribution ten (10) months after the initial payment, and assuming the final engineering documents described in Proffer VIII.A.4. have been approved, and
- c. a third and final \$6 million payment due eight (8) months after the second payment.

2. If the County chooses to direct the Applicant to provide such funds in lieu of construction, then the Applicant will have no further additional obligations with regard to the Ashburn Village Boulevard\Route 7 Interchange under these Proffers.

3. Should the County, or its designee, not require the Applicant's total contribution to complete the Interchange, the Applicant shall be entitled to either a return of any contributed funds and/or the County may notify the Applicant that the total funding is not necessary and reduce the amount(s) paid. Should the County, or its designee, proceed with the Interchange construction, the Applicant may request reasonable documentation of the costs of construction associated with its proffered improvements.

**IX. PUBLIC USE SITE, REGIONAL BIKE TRAIL AND POTOMAC GREEN SITE**

**A. Public Use Site.** [This proffer has been fulfilled.]

1. Size of Site and Timing of Dedication. The Applicant shall dedicate approximately 19.7 acres for a public use site (the “Public Use Site”), as shown on Sheet 6 of the CDP. This area calculation is based on the centerline of the adjacent, private roadways. The Public Use Site shall be dedicated to the County (a) following the submission of the Applicant’s first site plan, CPAP or preliminary subdivision plan (whichever comes first) and (b) within 30 days of receipt of written notice from the County and (c) following approval of any required subdivision to separately create this parcel.

2. Access. The Applicant will provide the Public Use Site with vehicular access from Marblehead Drive and shall construct a trail along Marblehead Drive prior to the issuance of an occupancy permit for the Public Use Site. The Public Use Site shall have public street access from Marblehead Drive and private street access from Road 8-B. The POA will be responsible for maintaining Road 8-B.

3. Utilities. The Applicant shall provide sanitary sewer lines and public water lines to the periphery of the Public Use Site prior to the issuance of an occupancy permit for the Public Use Site. Applicant shall contribute 50% of the total cost of providing gas, cable, electric and telephone services to the periphery of the Public Use Site, assuming the Loudoun County School Board and/or other agency provides the other 50% contribution.

4. School Site Option. In the event the County determines this site will be used for a school, the Applicant shall coordinate the timing of delivery with the County. The Public Use Site shall be dedicated to the County (a) following the submission of the Applicant’s first site plan, CPAP or preliminary subdivision plan (whichever comes first) and (b) within 30 days of receipt of written notice from the County and (c) following approval of any required subdivision to separately create this parcel. Applicant shall have no obligation to construct the school or any on-site fields or amenities, except as set forth above.

**B. Regional Bike Trail**

The Applicant shall construct a minimum 8’ wide shared use trail from the northwest Property corner, east along Route 7, to Loudoun County Parkway and continuing southward along the western edge of Loudoun County Parkway to the southern property boundary, as depicted on Sheets 7 and 8 of the CDP. The shared use trail will be a minimum of 8’ feet wide and, when not included within a public road right-of-way, will be located within a public access easement and will be maintained by the POA. The construction of the regional bike trail shall be completed in phases in conjunction with the development of the adjacent land bays.

**C. Potomac Green Dedicated Public Use Site – Sportsplex** [This proffer has been fulfilled.]

Assuming that the “Potomac Green Site” (located south of Marblehead Drive, adjacent to the southwestern property line of One Loudoun and more particularly identified as MCPI # 058-18-7890) has been dedicated to the County as a public use site, the Applicant shall provide the following recreational facilities on the Potomac Green Site:

1. Two (2) multi-purpose play fields (approximately 235' x 375'),
2. One (1) multi-purpose play field (approximately 150' x 235'), and
3. One (1) baseball field (200' outfield).

Applicant shall submit a conceptual layout and plans for these ball fields to Loudoun County (including the Department of Parks & Recreation) prior to approval of the first residential zoning permit. The final location of these recreational facilities shall be coordinated with the County's Department of Parks & Recreation. Each of the aforementioned fields shall be graded, seeded and irrigated. Vehicular parking shall also be provided.

Applicant shall submit a site plan for the aforementioned fields within four (4) months of (1) acceptance of the Potomac Green Site by Loudoun County and (2) approval of the Applicant's conceptual layout and plans for ball fields by Loudoun County (including the Department of Parks & Recreation) and concurrent with the Applicant's first submitted site plan, CPAP or preliminary subdivision plan (whichever comes first). Applicant shall construct these ball fields within 18 months of approval of the site plans and issuance of all necessary permits by Loudoun County and other permitting agencies for these proffered fields.

## **X. ENVIRONMENT**

### **A. Tree Conservation and Tree Protection**

1. The Applicant shall establish tree save areas in the locations shown on Sheets 5 and 6 of the Concept Development Plan as the "Tree Conservation Area." Clearing in these areas shall be permitted only for the construction of utility crossings, wetland mitigation, storm water management facilities, best management practices, low impact design facilities and trail crossings and any such clearing shall be limited to the minimum area required for said construction. The final delineation of the Tree Conservation Areas shall be phased in and established with contiguous site and/or subdivision plans.

2. A minimum of eighty (80) percent of the canopy within the cumulative Tree Conservation Area depicted on the CDP will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Conservation Areas, such lost canopy will be recaptured elsewhere on the Property in locations to be designated at the discretion of the Applicant in consultation with the County. Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development. Construction plans shall clearly define the limits of the Tree Conservation Area and all such areas shall be clearly marked in the field. Tree protection fencing shall be placed outside the drip lines along the Tree Conservation Area prior to commencing land-disturbing activities. The Applicant reserves the right to remove, in consultation with the County, any dead, damaged, dying or diseased trees and vegetation, and any tree or vegetation that interferes with the construction, proper functioning and/or use of any utility or drainage easement, or creates a danger to property or persons.

3. If, during construction on the Property, it is determined by the Applicant's

-

certified arborist and/or the County Urban Forester that any healthy tree located within the boundaries of any of the Tree Conservation Areas described in this Proffer has been damaged during construction and will not survive, then the Applicant shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The species and placement of replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area determined in consultation between the Applicant and the County Urban Forester.

4. The POA documents shall include a provision that prohibits removal of trees in Tree Conservation Areas as shown on the record plat after construction has been completed by the Applicant without specific permission of the County Urban Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The POA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Applicant or the POA without written approval from the County. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants.

#### **B. General Tree Protection**

Construction plans for all permitted improvements shall clearly define the limits of clearing and all such areas shall be clearly marked in the field. Tree protection fencing shall be placed outside the drip lines along all clearing limits in treed areas prior to commencing land-disturbing activities. In the event any trees to be protected are damaged due to construction activities and need to be removed (as determined by the Applicant's certified arborist), the Applicant shall replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The Applicant reserves the right to remove, in consultation with the County, any dead, damaged, dying or diseased trees and vegetation, and any tree or vegetation that interferes with the construction, proper functioning and/or use of any street or utility or drainage easement, or creates a danger to property or persons.

#### **C. Long-Term Tree Care**

The Applicant shall engage an urban forester/arborist to prepare tree management and maintenance programs for all Tree Conservation Areas. Such programs shall be prepared and submitted for each preliminary subdivision plan application in conjunction with tree conservation plans required by the Facilities Standards Manual. Such programs shall allow the removal of any dead, damaged, dying or diseased trees and vegetation, and any tree or vegetation that interferes with the proper functioning and use of any street or utility or drainage easement, or creates a danger to property or persons. The POA will be responsible for implementing the tree care programs. The POA covenants will include restrictions to prevent the POA from clearing within any designated Tree Conservation Area.

#### **D. Wetlands Trail Crossings**

The Applicant shall use raised boardwalks over wetlands and waters of the U.S. as part of the planned trail systems, subject to the approval of the County and Core of Engineers/Department of Environmental Quality.

#### **E. Wetlands Mitigation**

For any wetland and stream impacts determined to be unavoidable in conjunction with the permitting process, Applicant shall use commercially reasonable efforts to provide wetland mitigation in the following priority order: 1) on the Property, 2) within the same Planning Policy Area, and 3) within Loudoun County, subject to approval by the Army Corps of Engineers. [This proffer has been fulfilled.]

### **XI. NOISE IMPACT STUDY**

The Applicant will provide separate noise impact studies to the County that will determine the need for any buffering and noise attenuation measures along Russell Branch Parkway and Loudoun County Parkway frontages of the Property. The noise impact studies (one for each roadway) shall address the noise generated by the traffic from these roadways at the time of build-out of the Property. These studies will be conducted by a certified professional engineering firm and submitted to the County concurrently with the first record subdivision including residential units adjacent to Russell Branch Parkway or Loudoun County Parkway, respectively. If it is determined by County staff that the noise impacts on residential uses will exceed the noise performance standards for residential uses contained in the Zoning Ordinance, the Applicant will provide buffers, berms, fencing, or other such noise attenuation measures as part of the residential buildings or along Russell Branch Parkway or Loudoun County Parkway sufficient to mitigate the noise impact from these roadways prior to the issuance of occupancy permits for any residential dwelling units impacted by the noise levels. [This proffer has been fulfilled.]

### **XII. EMERGENCY SERVICES**

#### **A. Fire and Rescue Contribution - Residential Uses**

At the time of the issuance of each residential zoning permit, a one-time contribution of \$120.00 per unit for each residential unit shall be paid to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Said contribution shall escalate on a yearly basis from the base year of 1988 and change effective each January 1 thereafter, based on the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"). For the purpose of this Section, a residential unit includes each multi-family unit, each single family detached dwelling unit and each single family attached dwelling unit, excluding any approved accessory unit. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies

-

providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If only one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

#### **B. Fire and Rescue Contribution - Non-Residential Uses**

At the time of the issuance of each zoning permit for non-residential uses, a one-time contribution of \$0.20 per gross square foot of non-residential floor area shall be paid to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Said contribution shall escalate on a yearly basis from the base year of 1988 and change effective each January 1 thereafter, based on the CPI. For the purpose of this Section, non-residential floor area includes commercial and office area, but excludes HOA facilities and County owned facilities such as schools. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If only one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

#### **C. Sprinkler Systems**

Provided that the public water system is capable of delivering the requisite service pressures to support sprinkler systems, the Applicant shall require all residential builders to offer sprinkler systems in homes served by the public water system as an option to all residential purchasers. Builders shall not be required to install such sprinkler systems unless the purchasers choose to exercise such option prior to the start of construction and pay the sales price of the options associated with the purchase and installation of the sprinkler system. Builders shall not be required to install sprinkler systems in model homes unless required by the County building codes.

### **XIII. PARKING**

Any areas reflected on the CDP for development (including, but not limited to private roads, buildings, parking, structured parking or other future development) may be used, on an interim and phased basis, for surface parking unless and until the future phases are developed (in which case, the surface parking will be replaced).

### **XIV. SEVERABILITY**

Any portion of the Property may be the subject of a Proffered Condition Amendment, Zoning Concept Plan Amendment, Rezoning, Special Exception, Commission Permit, Zoning



-

Modification, Variance or other zoning action without the joiner and/or consent of the owners of the other land areas, provided that such application complies with the relevant Zoning Ordinance provisions. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property which are not the subject of such an application shall remain in full force and effect.

## **XV. ESCALATOR**

Unless otherwise specified, all cash contributions enumerated in these Proffers shall be subject to an annual escalator based on the CPI with a base year of 2007. This escalator shall take effect on January 1 of 2008 and change effective each January 1 thereafter.

The undersigned hereby warrant that all owners with any legal interest in the Property have signed this Proffer Statement, that no signature from any additional party is necessary for these Proffers to be binding and enforceable in accordance with their terms, that they, together with the others signing this document, have full authority to bind the Property to these conditions, and that the Proffers are entered into voluntarily.

**ONE LOUDOUN HOLDINGS LLC**, a Delaware  
limited liability company

By: Miller and Smith at One Loudoun, LLC,  
a Virginia limited liability company  
its Administrative Member

By: Miller and Smith, Inc.,  
a Virginia corporation  
its Manager

By: \_\_\_\_\_  
Name: Charles F. Stuart, Jr.  
Title: Senior Vice President

STATE OF \_\_\_\_\_ )

COUNTY/CITY OF \_\_\_\_\_ )

The foregoing Proffer Statement was acknowledged before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**ONE LOUDOUN DOWNTOWN LLC**, a Delaware  
limited liability company

By: Miller and Smith at One Loudoun, LLC,  
a Virginia limited liability company  
its Administrative Member

By: Miller and Smith, Inc.,  
a Virginia corporation,  
its Manager

By: \_\_\_\_\_  
Name: Charles F. Stuart, Jr.  
Title: Senior Vice President

STATE OF \_\_\_\_\_ )

) to-wit:

COUNTY/CITY OF \_\_\_\_\_ )

The foregoing Proffer Statement was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**ONE LOUDOUN NEIGHBORHOOD ASSOCIATION,  
INC., a Virginia corporation**

By: \_\_\_\_\_  
Name: William C. May  
Title: President

STATE OF \_\_\_\_\_ )

) to-wit:

COUNTY/CITY OF \_\_\_\_\_ )

The foregoing Proffer Statement was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**ZONING ORDINANCE MODIFICATIONS**

**REVISED ~~FEBRUARY 23~~APRIL 15, 2016**

**EXHIBIT B**

**CONCEPT DEVELOPMENT PLAN**

**REVISED ~~FEBRUARY 23~~April 15, 2016**



**EXHIBIT C**

**DESIGN GUIDELINE POLICIES**

**DATED JANUARY 5, 2007**

**REVISED FEBRUARY 2016**

**EXHIBIT D**  
**CONCEPTUAL SKETCH OF**  
**ASHBURN VILLAGE BOULEVARD INTERCHANGE**



AVN-Rte 7  
2-29-06 (2) (2).pdf.

**EXHIBIT F**

**CONCEPTUAL ILLUMINATION SUMMARY**



AVN-Rte 7  
2-29-06 (2) (2).pdf.

**EXHIBIT G**  
**ILLUMINATION SUMMARY**

<b>Summary report:</b> <b>Litéra® Change-Pro TDC 7.5.0.177 Document comparison done on</b> <b>4/15/2016 3:19:03 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://NAACTIVE/NAActive/119009081/4	
<b>Modified DMS:</b> iw://NAACTIVE/NAACTIVE/119009081/5	
<b>Changes:</b>	
<u>Add</u>	69
<del>Delete</del>	48
<del>Move From</del>	2
<u>Move To</u>	2
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	121